

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

**CARL M. HYLTON and PATRICIA M.
HYLTON,**

Plaintiffs,

v.

**NEWREZ LLC d/b/a SHELLPOINT
MORTGAGE SERVICING,**

Defendants.

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 1441 and 1446, Defendant NewRez LLC d/b/a Shellpoint Mortgage Servicing (“Defendant”) gives notice of the removal of this civil action from the Circuit Court of Wythe County, Virginia, where it is currently pending under Case No. 197CL21001173-00 to the United States District Court for the Western District of Virginia, Abingdon Division. This case is removable because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the parties are diverse in citizenship. As further grounds for removal, Defendant states as follows:

1. This action involves a dispute related to Plaintiffs, Carl M. Hylton and Patricia M. Hylton’s mortgage loan. Plaintiffs filed their Complaint on or around November 23, 2021. Defendant received a copy of the Summons and Complaint on December 2, 2021. Less than 30 days has elapsed from Defendant’s receipt of the Summons and Complaint and this Notice of Removal is timely.

GROUNDS FOR REMOVAL

I. The Amount in Controversy Exceeds \$75,000, Exclusive of Interest and Costs

2. In their prayer for relief, Plaintiffs ask the Court to award judgment against Defendants for alleged actual damages of \$100,000.00 and punitive damages of \$300,000.00, in addition to injunctive and other relief. Under 28 U.S.C. § 1446(c)(2), “the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy.” Thus, the Complaint on its face establishes the requisite amount in controversy.

II. The Parties in the Action are Diverse.

3. Upon information and belief, Plaintiffs are citizens of Wythe County, Virginia.
4. Defendant is a Delaware limited liability company whose members are citizens of Delaware and New York for purposes of diversity.

5. Because the Plaintiff and Defendant are citizens of different states, there is complete diversity of citizenship between the parties.

III. All Remaining Requirements for Removal Have Been Satisfied.

6. All defendants have joined in removal.
7. No defendant joined in this action is a citizen of Virginia, in which the action was brought.
8. The removal has been timely filed within 30 days of Defendant’s receipt of the Summons and Complaint.

9. This action is properly removed to the United States District Court for the Western District of Virginia, Abingdon Division, which “embrac[es] the place where such action is pending.” 28 U.S.C. §§ 1441(a) & 127(b).

10. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendant is attached hereto as **Exhibit A**.

11. As required by 28 U.S.C. § 1446(d), Defendant will promptly file a Notice of Filing Notice of Removal, with a copy of this Notice of Removal attached, with the Clerk of the Circuit Court of Wythe County.

12. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendant's right to assert any defense or affirmative matter, whether pursuant to Fed. R. Civ. P. 8(c), Fed. R. Civ. P. 12, or otherwise, including, but not limited to, the defenses of failure to state a claim upon which relief can be granted, lack of personal jurisdiction, or other defenses.

13. If any question arises as to the propriety of the removal of this action, Defendant requests the opportunity to submit a brief and oral argument and to conduct discovery in support of its position that removal is proper.

WHEREFORE, Defendant prays that the Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the Wythe County, Virginia Circuit Court, and for such other and further relief as this Court may deem just and proper.

Respectfully submitted, this the 22nd day of December, 2021.

BRADLEY ARANT BOULT CUMMINGS LLP

By: /s/ G. Benjamin Milam
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*Attorneys for NewRez LLC d/b/a Shellpoint
Mortgage Servicing*

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2021, a copy of the foregoing Notice of Removal was served by United States mail, addressed as follows:

Dennis E. Jones, Esq.
230 Charwood Drive, Suite A
Abingdon, VA 24210

Attorney for Plaintiffs

/s/ G. Benjamin Milam
Of Counsel